

TO: Assessors, Collectors, Treasurers, Accountants/Auditors, Finance Directors, Selectmen, Mayors, City/Town Managers, City/Town Councils, Clerks and City Solicitors/Town Counsels

FROM: Joseph J. Chessey, Jr., Deputy Commissioner

DATE: May 1999

SUBJECT: "Brownfields" Tax Agreements

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This *Bulletin* is to advise local officials about the procedures for accepting and implementing a new local option law that permits tax agreements in connection with the cleanup of contaminated sites.

#### **"Brownfields" Tax Agreements**

The "Brownfields Bill" enacted in 1998 made a number of significant changes in the state's environmental laws to help remove financial impediments to the cleanup and redevelopment of abandoned contaminated properties throughout the state. Chapter 206 of the Acts of 1998. Specifically, the bill created certain protections for new "innocent" owners and lenders in order to encourage them to redevelop these properties. Various financial incentives, including tax credits, loans and grants, were also provided to promote cleanup activities.

Included in the bill is a new local option provision, G.L. Ch. 59 §59A, that allows cities and towns to make agreements regarding the payment of **outstanding** real estate taxes, interest and penalties, including the abatement of those amounts needed to make a cleanup and redevelopment project economically feasible. Under the statute, these agreements must:

- Cover a property contaminated with oil or hazardous material and zoned for commercial or industrial use.

(over)

- Be entered into with an eligible owner under G.L. Ch. 21E §2. Eligible owners are new, “innocent” purchasers who did not own the site at the time the oil or hazardous material was released and did not cause or contribute to its release.
- Specify the details agreed to regarding payment of any outstanding obligations, including the amount owed, rate of interest to accrue if any, amount of monthly payments, payment schedule, late penalties and other terms.
- Be signed by the chair of the city council or board of selectmen and the property owner, notarized and attested to by the city or town clerk. Copies must be provided to the Commissioner of Revenue, state Department of Environmental Protection and federal Environmental Protection Agency, in addition to the property owner and city council or board of selectmen.

Communities that accept the statute may enter into agreements without Department of Revenue review or approval. Copies of agreements must be forwarded to the Property Tax Bureau, however, and city and town clerks should notify the Bureau of the community’s acceptance. (See attached “Notification of Acceptance”). Acceptance is by vote of town meeting, town council or city council. G.L. Ch. 4 §4.

#### **Implementation By-law/Ordinance**

Communities that accept the statute will also need to adopt an implementation by-law or ordinance. The by-law or ordinance should specify, at a minimum, the following:

- The persons authorized to negotiate an agreement on behalf of the city or town. This authority may be given to a particular officer, or some combination of officers.
- The scope of the agreement that may be negotiated. The scope may include reductions in outstanding taxes, interest and penalties, or may be limited to accrued interest and penalties.
- The process for approving any agreement negotiated. The legislative body may retain the power to approve all or some agreements, *e.g.*, those including reductions in taxes or over a certain dollar amount, or it may establish another approval process.

#### **Abatements**

**If an agreement reduces the taxes to be paid, abatements must be processed and charged to the overlays for the fiscal years of the taxes abated.** Abatements should be processed in the same manner and using the same forms as other abatements of real estate taxes. The assessors’ records should reflect that the abatements are authorized by G.L. Ch. 59 §59A, however.

Questions regarding these agreements may be directed to the Property Tax Bureau.

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(City/Town)

**NOTIFICATION OF ACCEPTANCE  
General Laws Chapter 59 §59A  
("Brownfields" Tax Agreements)**

The Commissioner of Revenue is hereby notified that the City/Town of \_\_\_\_\_, by  
action of \_\_\_\_\_ (town meeting/city council), on \_\_\_\_\_, \_\_\_\_\_, has accepted the provisions  
of General Laws Chapter 59 §59A.

\_\_\_\_\_  
(City/Town Clerk)

\_\_\_\_\_  
(Date)

**PLEASE ATTACH A CERTIFIED COPY OF THE VOTE AND SUBMIT TO:**

**Property Tax Bureau  
Division of Local Services  
P.O. Box 9490  
Boston MA 02205-9490**